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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

ARTICIA WOODS, individually and
on behalf of all others similarly
situated,

Plaintiffs,

-against-

HUNT & HENRIQUES, INC. and
JOHN DOES 1-10,

Defendants.

Civil Case Number:

CIVIL ACTION

**CLASS ACTION COMPLAINT
AND
DEMAND FOR JURY TRIAL**

1 Plaintiff ARTICIA WOODS (hereinafter, "Plaintiff"), a California
2 resident, brings this class action complaint by and through his attorneys, The Law
3 Offices of Todd M. Friedman, against Defendant HUNT & HENRIQUES, INC.
4 (hereinafter "Defendant"), individually and on behalf of a class of all others
5 similarly situated, pursuant to Rule 23 of the Federal Rules of Civil Procedure,
6 based upon information and belief of Plaintiff's counsel, except for allegations
7 specifically pertaining to Plaintiff, which are based upon Plaintiff's personal
8 knowledge.
9
10
11

12 **JURISDICTION AND VENUE**

- 13
- 14 1. The Court has jurisdiction over this class action under 28 U.S.C. § 1331, 15
15 U.S.C. § 1692 *et seq.* and 28 U.S.C. § 2201. If applicable, the Court also
16 has pendent jurisdiction over the state law claims in this action pursuant to
17 28 U.S.C. § 1367(a).
18
 - 19 2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).
20

21 **NATURE OF THE ACTION**

- 22
- 23 3. Plaintiff brings this class action on behalf of a class of California
24 consumers seeking redress for Defendant's actions of using an unfair and
25 unconscionable means to collect a debt.
26
 - 27 4. Defendant's actions violated § 1692 *et seq.* of Title 15 of the United States
28 Code, commonly referred to as the Fair Debt Collections Practices Act

1 (“FDCPA”) which prohibits debt collectors from engaging in abusive,
2 deceptive and unfair practices.
3

4 5. Plaintiff is seeking damages, and declaratory and injunctive relief.

5 **PARTIES**

6
7 6. Plaintiff is a natural person and a resident of the State of California, and is
8 a “Consumer” as defined by 15 U.S.C. §1692(a)(3).
9

10 7. Defendant is a law firm that engages in the business of debt collection with
11 its principal office located at 151 Bernal Road, Suite 8, San Jose,
12 California.
13

14 8. Upon information and belief, Defendant is a company that uses the mail,
15 telephone, and facsimile and regularly engages in business the principal
16 purpose of which is to attempt to collect debts alleged to be due another.
17

18 9. Defendant is a “debt collector,” as defined under the FDCPA under 15
19 U.S.C. § 1692a(6).
20

21 10. John Does 1-10, are fictitious names of individuals and businesses alleged
22 for the purpose of substituting names of Defendants whose identities will
23 be disclosed in discovery and should be made parties to this action.
24

25 **CLASS ALLEGATIONS**

26
27 11. Plaintiff brings claims, pursuant to the Federal Rules of Civil Procedure
28 (hereinafter “FRCP”) Rule 23, individually and on behalf of the following

1 consumer class (the “Class”):

- 2 • All California consumers who were sent collection letters and/or
- 3 notice from Defendant attempting to collect an obligation owed
- 4 that contain at least one of the alleged violations arising from
- 5 Defendant's violation of 15 U.S.C. §1692 *et seq.*.
- 6
- 7
- 8 • The Class period begins one year to the filing of this Action.
- 9

10 12.The Class satisfies all the requirements of Rule 23 of the FRCP for

11 maintaining a class action:

- 12 • Upon information and belief, the Class is so numerous that
- 13 joinder of all members is impracticable because there are
- 14 hundreds and/or thousands of persons who have received debt
- 15 collection letters and/or notices from the Defendant that violate
- 16 specific provisions of the FDCPA. Plaintiff is complaining of a
- 17 standard form letter and/or notice that is sent to hundreds of
- 18 persons (*See **Exhibit A***), except that the undersigned attorney
- 19 has, in accordance with Fed. R. Civ. P. 5.2 partially redacted the
- 20 financial account numbers in an effort to protect Plaintiff's
- 21 privacy);
- 22
- 23 • There are questions of law and fact which are common to the
- 24 Class and which predominate over questions affecting any
- 25
- 26
- 27
- 28

1 individual Class member. These common questions of law and
2 fact include, without limitation:

- 3
- 4 a. Whether Defendant violated various provisions of the
- 5 FDCPA;
- 6
- 7 b. Whether Plaintiff and the Class have been injured by
- 8 Defendant's conduct;
- 9
- 10 c. Whether Plaintiff and the Class have sustained damages
- 11 and are entitled to restitution as a result of Defendant's
- 12 wrongdoing and if so, what is the proper measure and
- 13 appropriate statutory formula to be applied in
- 14 determining such damages and restitution; and
- 15
- 16 d. Whether Plaintiff and the Class are entitled to
- 17 declaratory and/or injunctive relief.
- 18
- 19
- 20 • Plaintiff's claims are typical of the Class, which all arise from the
- 21 same operative facts and are based on the same legal theories.
- 22
- 23 • Plaintiff has no interest adverse or antagonistic to the interest of
- 24 the other members of the Class.
- 25
- 26 • Plaintiff will fairly and adequately protect the interest of the Class
- 27 and has retained experienced and competent attorneys to
- 28 represent the Class.

- 1 • A Class Action is superior to other methods for the fair and
2 efficient adjudication of the claims herein asserted. Plaintiff
3 anticipates that no unusual difficulties are likely to be
4 encountered in the management of this class action.
5
- 6 • A Class Action will permit large numbers of similarly situated
7 persons to prosecute their common claims in a single forum
8 simultaneously and without the duplication of effort and expense
9 that numerous individual actions would engender. Class
10 treatment will also permit the adjudication of relatively small
11 claims by many Class members who could not otherwise afford
12 to seek legal redress for the wrongs complained of herein.
13 Absent a Class Action, class members will continue to suffer
14 losses of statutory protected rights as well as monetary damages.
15 If Defendant's conduct is allowed proceed to without remedy
16 they will continue to reap and retain the proceeds of their ill-
17 gotten gains.
18
- 19 • Defendant has acted on grounds generally applicable to the entire
20 Class, thereby making appropriate final injunctive relief or
21 corresponding declaratory relief with respect to the Class as a
22 whole.
23
24
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28

ALLEGATIONS OF FACT

13.Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs above herein with the same force and effect as if the same were set forth at length herein.

14.Sometime prior to March 5, 2016, an obligation was allegedly incurred to HSBC Bank Nevada, N.A.

15.Sometime prior to March 5, 2016, the above alleged debt was assigned to or sold to LVNV Funding, LLC. ("LVNV")

16.The LVNV obligation arose out of a transaction in which money, property, insurance or services, which are the subject of the transaction, are primarily for personal, family or household purposes.

17.The alleged LVNV obligation is a "debt" as defined by 15 U.S.C.§ 1692a(5).

18.LVNV is a "creditor" as defined by 15 U.S.C.§ 1692a(4).

19.Defendant contends that the LVNV debt is past due.

20.Defendant collects and attempts to collect debts incurred or alleged to have been incurred for personal, family or household purposes on behalf of creditors using the United States Postal Services, telephone and internet.

21.LVNV directly or through an intermediary contracted Defendant to collect the debt.

1 22. On or about March 5, 2016, the Defendant caused to be delivered to the
2 Plaintiff a collection letter in an attempt to collect the alleged LVNV debt.
3

4 *See Exhibit A.*

5 23. The March 5, 2016 letter was sent or caused to be sent by persons
6 employed by Defendant as a “debt collector” as defined by 15 U.S.C.
7 §1692a(6).
8

9 24. The March 5, 2016 letter is a “communication” as defined by 15 U.S.C.
10 §1692a(2).
11

12 25. On information and belief, the March 5, 2016 letter is a computer generated
13 form letter that is prepared for the Defendant and sent to consumers from
14 whom it is attempting to collect a debt.
15

16 26. The top portion of the letter states:
17

18 “LVNV Funding, LLC v. Articia Woods
19 Case Number: 11CF0404
20 Date of Judgment: April 6, 2011
21 Amount of Judgment: \$4816.64
22 Current Balance: \$6643.13
23 (HSBC Bank Nevada, N.A.)”
24

25 27. This letter further stated in part:
26

27 “The current balance due is \$6643.13. In an effort to settle this
28 matter and limit future collection actions, we will accept a lump sum
of \$3587.28 as settlement in full of your current obligation.”

1
2 28. Upon information and belief, there would be no required interest, late
3 charges, or other charges that may vary from day to day.
4

5 29. Defendant's actions as described herein are part of a pattern and practice
6 used to collect consumer debts.
7

8 30. Defendant could have taken the steps necessary to bring its actions within
9 compliance with the FDCPA, but neglected to do so and failed to
10 adequately review its actions to ensure compliance with the law.
11

12 31. On information and belief, Defendant sent a written communication, in the
13 form annexed hereto as **Exhibit A** to at least 50 natural persons in the State
14 of California within one year of the date of this Complaint.
15

16 **COUNT I**

17 **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**

18 **15 U.S.C. §1692e et seq.**

19
20 32. Plaintiff repeats, reiterates and incorporates the allegations contained in
21 paragraphs above herein with the same force and effect as if the same were
22 set forth at length herein.
23

24 33. Defendant's debt collection efforts attempted and/or directed towards the
25 Plaintiff violated various provisions of the FDCPA, including but not
26 limited to 15 U.S.C. § 1692e, 15 U.S.C. § 1692e(5), 15 U.S.C. § 1692e(2)
27 and 15 U.S.C. § 1692e(10).
28

1 34. Pursuant to 15 U.S.C. §1692e, a debt collector may not use any false,
2 deceptive, or misleading representation or means in connection with the
3 collection of any debt.
4

5 35. Defendant violated said section by:
6

- 7 • Falsely representing the character or amount of the debt in violation
8 of 15 U.S.C. § 1692e(2);
9
- 10 • Threatening to take action that defendant had no intention or did not
11 have a legal right of taking in violation of 15 U.S.C. § 1692e(5); and
12
- 13 • Using a false or deceptive means in an attempt to collect a debt in
14 violation of 15 U.S.C. § 1692e(10).

15 36. By reason thereof, Defendant is liable to Plaintiff for judgment that
16 Defendant's conduct violated Section 1692e *et seq.* of the FDCPA, actual
17 damages, statutory damages, costs and attorneys' fees.
18

19 **COUNT II**
20

21 **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**
22 **15 U.S.C. §1692g *et seq.***
23

24 37. Plaintiff repeats, reiterates and incorporates the allegations contained in
25 paragraphs above herein with the same force and effect as if the same were
26 set forth at length herein.
27

28 38. Defendant's debt collection efforts attempted and/or directed towards the

1 Plaintiff violated various provisions of the FDCPA, including but not
2 limited to 15 U.S.C. § 1692g(a)(1)
3

4 39. Pursuant to 15 U.S.C. § 1692g(a)(1), a debt collector must in their initial
5 communication or within five days thereof properly disclose the amount of
6 the debt.
7

8 40. Defendant violated said section by failing to disclose the amount of
9 interest, late fees, or other charges as it relates to the current balance owed,
10 causing the Plaintiff to be uncertain of her rights and leaving her confused
11 about the current total amount she owes.
12

13 41. In the Seventh Circuit case of *Miller v. Mcalla, Raymer, Padrick, Cobb,*
14 *Nichols, and Clark LLC* 214 F.3d 872 (7th Cir. 2000) the court stated safe
15 harbor language (“as of the date of this letter etc. .”) to instruct debt
16 collectors how to properly disclose the amount owed in situations where
17 they are charging interest, late fees or other charges. “We hold that the
18 following statement satisfies the debt collector’s duty to state the amount of
19 the debt **in cases like this where the amount varies from day to day**”
20 (emphasis added). *Id.*
21
22
23
24

25 42. The Defendant wrongfully mirrored that language in this case and as such,
26 the letter cannot be saved by the safe harbor language.
27

28 43. By reason thereof, Defendant is liable to Plaintiff for judgment that

1 Defendant's conduct violated Section 1692g *et seq.* of the FDCPA, actual
2 damages, statutory damages, costs and attorneys' fees.
3

4
5 **PRAYER FOR RELIEF**
6

7 **WHEREFORE**, Plaintiff demands judgment against Defendants as
8 follows:
9

10 (a) Declaring that this action is properly maintainable as a Class
11 Action and certifying Plaintiff as Class representative, and Ari Marcus, Esq. and
12 Yitzchak Zelman, Esq., as Class Counsel;
13

14 (b) Awarding Plaintiff and the Class statutory damages;

15 (c) Awarding Plaintiff and the Class actual damages;

16 (d) Awarding Plaintiff costs of this Action, including reasonable
17 attorneys' fees and expenses;
18

19 (e) Awarding pre-judgment interest and post-judgment interest;
20

21 and

22 (f) Awarding Plaintiff and the Class such other and further relief
23 as this Court may deem just and proper.
24

25 **DEMAND FOR TRIAL BY JURY**
26

27 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff
28 hereby requests a trial by jury on all issues so triable.

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3 By: s/ Todd M. Friedman
4 Todd M. Friedman, Esq.
5 Law Offices of Todd M. Friedman, P.C.
6 Attorney for Plaintiff
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